

SECTION 3. Title 2 of the Vista Municipal Code is amended by adding Chapter 2.34 "Fair Elections and Campaign Financing", to read in its entirety as follows:

Chapter 2.34 - Fair Elections and Campaign Financing

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2.34.010 Purpose and Intent

The people of the City of Vista expect and are entitled to receive honest and fair representation from their elected representatives and the opportunity to elect City officials free from undue influence by special interest groups and campaign contributors.

The purpose of this Chapter is to prevent actual or potential corruption in City government by placing realistic and enforceable limits on campaign contributions to candidates for election to the offices of Mayor or City Council member; and by requiring candidates for such offices to disclose the sources of their campaign funding.

2.34.020 Short Title.

This Chapter shall be known as the "Fair Elections and Campaign Financing" Ordinance.

2.34.030 Definitions.

Except as otherwise set forth below, or elsewhere in this Chapter, the words and terms used in this Chapter shall have the same meanings, and be defined as closely as possible with respect to the City of Vista, as the meanings of such words and terms are given under the Political Reform Act.

Anonymous contribution means any campaign contribution to a candidate or committee for purposes of supporting or opposing the election of a candidate to any City Office for which either the contributor is unknown to the candidate or committee, or who refuses to be identified.

City means the City of Vista, a municipal corporation organized and existing the general laws of the State of California, and also includes all other public entities of the City in which the City Council of the City serves as governing board.

City Office means the offices of Mayor or Council Member of the City of Vista.

Committee shall have the same meaning as set forth in Government Code Section 82013 but only with respect to the purpose of supporting or opposing the election of any candidate for City Office, except that the dollar limits expressed in Section 82013 are reduced to three hundred dollars (\$300) or more.

Contribution shall have the same meaning as set forth in Government Code Section 82015 (f), but with respect to an election for City Office, except that the exclusion set forth in Section 82015 (f) for costs of a meeting or fund-raising event in the home or office of the occupant shall be reduced to one hundred fifty dollars (\$150) or less.

Controlled committee shall have the same meaning as set forth in Government Code Section 82016, but with respect to a committee organized for purpose of supporting any candidate for election to a City Office.

Council Member means an individual who has been elected either to the office of Council Member or to the office of Mayor of the City of Vista.

Candidate means an individual who has filed either a declaration of candidacy for, or a statement of organization as a committee, for election or re-election to a City Office.

Election means any election held for the purpose of filling a vacancy in the office of Mayor or Council Member of the City of Vista.

FPPC means the California Fair Political Practices Commission, established pursuant to the Political Reform Act.

Independent committee means a committee that is neither controlled by a candidate, nor which coordinates its expenditures with the expenditures of any candidate or a candidate's controlled committee, and which receives contributions or makes expenditures for the purpose of supporting or opposing any candidate for City Office.

Individual means a single human being.

Maximum Allowed Contribution shall mean the value of the aggregate limit of gifts that may be received from any individual source or person under subdivision A of Section 2.33.040 of this Title 2, as that value may be adjusted from time to time pursuant to subdivision B of Section 2.33.040. As of the effective date of this Section, the Maximum Allowed Contribution is three hundred dollars (\$300).

Person means any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, limited liability company, corporation, association, committee, and any other organization or group of persons acting in concert.

Political Reform Act shall mean the Political Reform Act of 1974, found in Title 9 of the California Government Code, as amended, inclusive of all rules, regulations and interpretations applicable to said Title 9, approved or adopted by the FPPC.

2.34.040 Application.

The provisions of this Chapter shall apply only to campaigns for or against the election of any candidate to a City Office, and shall not apply to elections concerning any measure, initiative, referendum, or recall.

2.34.050 Rules of Construction; Severability

The provisions of this Chapter shall be interpreted in the broadest possible manner, consistent with the constitutions of the United States and the State of California and with existing laws and statutes, in particular the provisions of the Political Reform Act, as amended, to accomplish the purposes and intent of this Chapter.

If any part of this Chapter is found by any court for any reason to be invalid, then all remaining parts of this Chapter that are not found to be invalid shall remain in full force and effect, and the remaining parts shall be interpreted as if this Chapter were enacted originally without including invalid parts.

2.34.060 Limits and Prohibitions on Campaign Contributions

A. Limits on Campaign Contributions to Candidates and Controlled Committees. No person, other than the candidate, shall make, nor shall a campaign treasurer

solicit or accept from any person, any contribution which will cause the total amount contributed by that person to the election campaign of any candidate for City Office to exceed the Maximum Allowed Contribution in any election. This campaign contribution limit shall apply to the total of all contributions made by any person other than the candidate, collectively to the candidate and to any of the candidate's controlled committees, except for any controlled committees organized solely for the purpose of campaigning for or against any measure, initiative, referendum or recall.

B. Limits on Anonymous Campaign Contributions. No candidate or committee shall accept anonymous contributions in a total aggregate amount exceeding the Maximum Allowed Contribution for any single election. Nor shall any candidate or committee expend or use anonymous contributions received in a total aggregate amount exceeding the Maximum Allowed Contribution. To the extent that the aggregate total amount of anonymous contributions received by any candidate or controlled committee for any election exceeds the Maximum Allowed Contribution, the excess amount shall be paid promptly, from available campaign funds, if any, to the City Treasurer for deposit in the General Fund of the City, unless required by law to be paid to the Secretary of State.

C. Prohibition of "Laundered" Campaign Contributions. No candidate, committee, or campaign treasurer shall accept any campaign contribution made directly or indirectly, by any person in a name other than the name by which the contributor is known and identified for legal purposes, or in the name of any different person, or combination of persons, other than the name of the actual contributor. No person shall, in his, her or its own name, make a contribution of any thing of value belonging to another person, or that was received from another person on the condition that it be used as a campaign contribution. Such practices are commonly known as "laundering" campaign contributions. Upon discovery by any candidate, committee, or campaign treasurer of the receipt of any such "laundered" campaign contributions in violation of this Subdivision, the candidate, committee or campaign treasurer shall promptly pay to the City Treasurer for deposit to the City's General Fund, from any of the candidate's or committee's available campaign funds, the amount of such "laundered" campaign contributions received in violation of this Subdivision.

2.34.070 Limits and Disclosure of Loans to Candidates and Committees

A. Limits on Amount of Loans to Candidates and Committees. Subject to the exceptions listed below, a candidate or a committee shall not obtain a loan in excess of the monetary limits set forth in subdivision A of Section 2.34.060 from any person, for the purpose of supporting or opposing a candidate for election to any City Office. The limitation on the amount of a campaign loan shall not apply to any loan by a candidate made for the sole purpose of financing the candidate's own campaign for election to City office.

B. Disclosure of Permitted Loans. If a candidate or committee obtains a loan in compliance with Subdivision A, above, the candidate or committee shall comply with all of the following requirements:

(1) The loan shall be evidenced by a written agreement which sets forth the lender, loan amount, funding source if different from the lender, interest rate, repayment terms, collateral pledged, and records of all repayments made on the loan, including legible photocopies of any canceled checks, and any other terms or conditions of the loan.

(2) The candidate or committee shall file a copy of the written agreement required under subparagraph (1) above with the City Clerk within five (5) calendar days of the execution of the written agreement or the receipt of the loan proceeds, whichever occurs first.

(3) The candidate or treasurer of the committee receiving the loan shall execute and deliver a promissory note for the amount borrowed, and the note shall include a specific repayment schedule, shall set forth all other terms and conditions of the loan, including the interest rate, and the terms and conditions of the loan shall not be substantially or materially different from the terms and conditions of commercial loans generally made available to the general public.

(4) A loan shall not be secured by any assets, other than personal assets of the candidate, or joint or community property assets of the candidate and the candidate's spouse, except that other persons may pledge assets for the repayment of the loan in amounts not exceeding the campaign contribution limits imposed under subdivision A of Section 2.34.060, and any such pledge shall be deemed a campaign contribution for purposes of this Chapter.

(5) The candidate or committee shall maintain copies of all loans documents and make legible copies available for inspection in the manner provided in Section 2.34.110.

2.34.080 Organization of Committees; Campaign Statements.

Any committee that either receives or expends an amount greater than the Maximum Allowed Contribution in support of or opposition to any candidate for City Office shall file with the City Clerk a statement of organization in substantially the same form required by the Political Reform Act for such purposes not later than ten (10) days following the opening of the election campaign account. The committee shall identify whether it is a controlled committee or an independent committee.

2.34.090 Campaign Statements - Supplemental Filing Requirements and Schedule

A. Supplemental Filing Requirement. In addition to the requirements for filing campaign statements imposed by the Political Reform Act, every candidate for election, and every committee supporting or opposing a candidate for election, as defined in section 2.34. 030 of this Chapter, shall file campaign disclosure statements with the City Clerk, in substantially the same form as required by section 84211 (Campaign Disclosure Statement) whenever campaign contributions received, or campaign expenditures of three hundred dollars (\$300) or more, are received or expended.

B. Supplemental Filing Schedule. In addition to the requirements for filing campaign statements imposed by the Political Reform Act, every candidate for election, and every committee, shall file pre-election campaign statements with the City Clerk on the twentieth (20th) and sixth (6th) days prior to the election date.

2.34.100 Election Campaign Accounts.

A. Election Campaign Account Required. Every candidate and every committee receiving contributions in an amount equal to or greater than the Maximum Allowed Contribution in support of or opposition to the election of any candidate for City Office shall establish a single election campaign account for the election campaign with a bank or other financial institution providing checking account services and having an office located in the City of Vista. Notwithstanding the preceding sentence, a candidate and the candidate's controlled committee formed solely for the purpose of supporting that candidate for election to any City Office may establish and maintain a single joint checking account for both the candidate and the committee. Within twenty four (24) hours after opening an election campaign account, the candidate or the treasurer of the committee shall file with the City Clerk, in writing or on forms provided by the City Clerk, the name of the bank or financial institution and the number of the election campaign account.

B. Deposit of Campaign Contributions. Upon opening an election campaign account, all contributions accepted by a candidate, committee, or campaign treasurer shall be deposited by the candidate, committee or campaign treasurer in the candidate's or committee's election campaign account within five (5) business days. No contribution shall be deposited to an election campaign account without the candidate or committee treasurer having received, with respect to that contribution, all of the information identified under Government Code Sections 84211 pertaining to campaign contributions. Any contribution not deposited within five (5) business days shall be returned to the contributor as soon as possible after the fifth (5th) business day, but no later than ten (10) business days after receipt of the contribution.

C. Election Campaign Expenditures. Every election campaign expenditure made following the opening of an election campaign account shall be made only upon a check drawn

on the election campaign account and signed by the candidate or campaign treasurer, or an authorized agent of the candidate or campaign treasurer. For purposes of this Section, an expenditure shall be deemed made by check drawn against the election campaign account if: (1) the maker of the expenditure is reimbursed by a check drawn on the account, and (2) the expenditure is reported as a campaign expenditure within the time required for filing of campaign statements. Each candidate, campaign treasurer, or committee shall maintain a written record of the payee of each check drawn on a campaign contribution checking account and an itemized record of the goods or services for which each check is issued. Funds held in the election campaign account shall be deemed to be held in trust, and shall not be considered for any purposes to be the personal funds of a candidate, campaign treasurer, committee, or other person.

D. City Clerk's Access to Records. The City Clerk shall have full access during normal business hours to the bank's or financial institution's records concerning any election campaign account established pursuant to this Chapter.

E. Retention of Records. The candidate, committee, or authorized agent, shall retain, for a minimum period of four (4) years following the election, all records of campaign contributions received and expenditures made in connection with campaigns in support of or opposition to candidates for election to any City Office.

F. Segregation of Funds and Records By Committees. Each committee required by this Chapter to open an election campaign account, and which also engages in campaign activity in elections other than the election of City Officers, shall physically segregate the funds received from, and shall maintain separate records of, all contributions and campaign expenditures received or made in connection in the campaign for or against the election of any candidate for City Office.

2.34.110 Petty Cash Disbursements

Notwithstanding the provisions of Section 2.34.090, the candidate or campaign treasurer or other designated agents authorized to issue checks on an election campaign account may disburse to the candidate or committee establishing the checking account an amount not greater than \$20 per week to be used for petty cash purposes by the candidate or committee. An amount not greater than \$40 per week may be disbursed to a candidate and committee jointly establishing an election campaign account, to be used for petty cash purposes.

2.34.120 Additional Required Records

A. Records Required to be Maintained. In addition to any other requirements for keeping of campaign records by candidates or committees, every candidate and committee establishing an election campaign account pursuant to this Chapter shall maintain records, for a minimum period of four (4) years from the date of the election, of all of the following:

- (1) any contribution offered to and refused in whole or in part by the candidate or committee;
- (2) any contribution received by the candidate or committee and returned in whole or in part to the contributor;
- (3) any contribution received by the candidate or committee and deposited in whole or in part into the election campaign account;
- (4) any disbursements made from the election campaign account.

B. Contents of Records. The records required to be maintained by subdivision A above shall include, without limitation, all of the following information:

- (1) the name and address of each contributor;
- (2) the amount of each contribution, and the date on which it was received or offered;
- (3) a legible photocopy of the check for every contribution made by check;
- (4) a legible copy of the bank deposit slip depositing the contribution into the election campaign account for every contribution made in cash;
- (5) legible photocopies of the originals of all bank records of the election campaign account;
- (6) a statement disclosing the source of funds for every contribution made by the candidate for personal funds;
- (7) for every non-monetary contribution, a description of the thing or services contributed and a reasonable good-faith estimate of the value of the contribution;
- (8) for each disbursement by check made from an election campaign account, the canceled check, or a legible photocopy, the bank statement showing the disbursement, the name of the payee, a record of the goods and services for which the disbursement was made, and a legible photocopy or original of the invoice, statement or bill received from the payee.

C. Presentation of Records for Inspection.

Each candidate or committee shall deliver to, or make available upon demand by, any public officer having authority to enforce this Chapter: (1) a written authorization permitting the officer to have access to all records pertaining to an election campaign account; and (2) all records required by this Chapter to be maintained by the candidate or committee.

2.34.130 Return of Prohibited Contributions.

A. Rejection of Any Offer. Any campaign contribution offered to a candidate or committee in violation of this Chapter shall be rejected by the candidate or committee to whom offered.

B. Return of Contributions Received. If a candidate, committee or campaign treasurer discovers after having received a campaign contribution that the contribution is in violation of this Chapter, the candidate, committee or campaign treasurer shall not be a violation of this Chapter if the candidate, committee or campaign treasurer: (1) does not deposit the contribution into the election campaign account; and (2) returns the contribution within five (5) calendar days of the date the contribution was received.

C. Reporting Contributions Deposited to Election Campaign Account. If a candidate, committee or campaign treasurer discovers that a contribution has been received and deposited into the election campaign account, in violation of any provision of this Chapter, the candidate, committee or campaign treasurer shall not be in violation of this Chapter if the candidate, committee or campaign treasurer complies with both conditions (1) and (2) below:

(1) The candidate, committee or campaign treasurer discovering the violation files a written statement of the violation with the City Clerk within five (5) calendar days of having discovered the violation. The written statement shall include all pertinent facts known about the contribution, along with the following information:

(a) If the contribution was made by check, draft, or other instrument, a legible copy of the check, draft or instrument by which the contribution was made;

(b) If made in cash, the amount of contribution and a legible photocopy of the bank deposit slip by which the contribution was deposited to the election campaign account;

(c) If made by wire or electronic transfer, a photocopy of the record of the transfer;

(d) The method by which the contribution was delivered to the candidate, committee or campaign treasurer (e.g. by personal delivery, U.S. Postal System delivery, private courier or messenger, etc.). If delivered in person by the contributor or contributor's agent, the statement shall include the name, address and phone number of the contributor or agent.

(2) The written statement to the City Clerk shall be accompanied by a check drawn on the election campaign account in an amount equal to the amount of the contribution deposited in violation of this Chapter, and the amount shall be donated to the General Fund of the City.

2.34.140 Independent Campaign Expenditures Disclosure

If an independent person or organization makes expenditures supporting or opposing any candidate for election to City Office, and if such expenditures, or any portion of them, would otherwise be subject to the provisions of this Chapter if made by a candidate or committee, the independent person or organization shall indicate legibly, clearly and prominently on the face of all campaign material published or displayed, or at the beginning and end of any campaign broadcast, that the material has not been paid for or authorized by any candidate or committee. For purposes of this Section an "independent person or organization" means any person, group or association, or any combination thereof, not subject to the control of a candidate or committee.

2.34.150 Enforcement; Complaints; Investigations and Legal Actions; Compliance

A. Enforcement. The Enforcement Authority shall enforce the provisions of this Ordinance. For purposes of this Chapter, the Enforcement Authority shall be the City Attorney, or any person designated by the City Council to act as the Enforcement Authority.

B. Complaints. Any person who has reason to believe that a violation of any provision of this Chapter has occurred may file a written statement of such belief with the Enforcement Authority. Upon a determination by the Enforcement Authority that there exists sufficient grounds to support a reasonable belief that a violation of this Chapter has occurred, the Enforcement Authority shall make an investigation. If the Enforcement Authority has reason to believe that a willful violation of this Chapter has occurred, or is about to occur, the Enforcement Authority may institute legal action to prevent further violations.

C. Investigations and Legal Action. The Enforcement Authority shall have such powers and authorities as may be necessary and proper to perform investigations authorized under this Chapter, and may demand and be furnished with records of campaign contributions and expenses from candidates, committees or campaign treasurers at any time. The Enforcement Authority shall have the power and authority to bring any legal action deemed necessary and appropriate, whether criminal or civil in nature, to enforce the provisions of this Chapter.

D. Determining Compliance. The Enforcement Authority shall determine whether required statements and declarations have been filed as required by this Chapter and, if so, whether they conform with the requirements of this Chapter.

2.34.160 Penalties

A. Misdemeanor. Any person who has violated any of the provision of this Chapter, or any person who has counseled, aided, abetted, advised, or participated in any violation of this Chapter, is guilty of a misdemeanor, subject to the penalties set forth in Section 1.16.010.D of this Municipal Code.

B. Forfeiture. In addition to any other penalty under this Municipal Code, any person having been convicted of violating section 2.34.060 of this Chapter shall be required to forfeit the amount received in violation of such section and to pay over that amount to the City Treasurer for deposit to the General Fund of the City.

C. Tolling of Statutes of Limitations. Any limitation of time prescribed by law within which prosecution of a violation of this Chapter must commence shall begin to run upon the date of discovery of the violation.

2.34.170 Amendments

The provisions of this Chapter may be repealed only by approval of the voters of the City at an election. The provisions of this Chapter may be amended upon adoption of an ordinance by the City Council only for the purpose of conforming any of the provisions of this Chapter with State law or with the Political Reform Act, repairing any constitutional infirmity, or adopting additional standards and regulations for fair elections and campaign financing of candidates to City Offices, consistent with the purposes of this Chapter.

APPROVED AND ADOPTED BY THE PEOPLE of the City of Vista at an election held on November 7, 2000, with 12,057 affirmative votes and 6,892 negative votes.

(d)(5)

GLORIA E. McCLELLAN, Mayor

ATTEST:

(d)(5)

Jo Seibert, City Clerk